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OAKLAND

2012 APR 26 PM 5: 31

## AGENDA REPORT

**TO:** DEANNA J. SANTANA

**FROM:** Howard A. Jordan

**SUBJECT:** Frazier Group, LLC Contract

**DATE:** April 26, 2012

City Administrator  
Approval

*Deanna J. Santana*

Date

*4/26/12*

### SUPPLEMENTAL INFORMATION

#### RECOMMENDATION

Staff recommends that the Council approve a resolution authorizing the City Administrator to 1) waive the Advertising, Competitive Bid and Request for Proposals/Qualifications Requirements (RPF/Q) Process; 2) continue existing services; and 3) increase the existing contract with Frazier Group, LLC by an additional two hundred fifty thousand dollars (\$250,000) for a total contract amount of \$350,000, to conduct administrative misconduct investigations related to police complaints received during *Occupy Oakland* events in the City of Oakland and to satisfy the conditions of the Negotiated Settlement Agreement (NSA).

#### SUPPLEMENTAL INFORMATION

The purpose of this supplemental report is to update the City Council on the: (1) status of indemnification, (2) State law related to Annuity, and (3) provide more info on procurement process. This additional information supplements all other information in the previous report issued.

##### Indemnification

When the original report was issued, we mentioned that the issues of indemnification were still being explored. Since that time, those issues have been resolved, and there are no actions needed for Council.

##### Clarification of State Law Re: Annuity

Annuity have contributed to IAD's capacity and the ability to meet the required timelines. However, the annuity working on Internal Affairs investigations have maxed out on the time

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they can work and are no longer available. Existing staff in Internal Affairs will need to continue much of the work that was being done by those annuitants. With that workload redistributed it diminishes the Internal Affairs Division's ability to handle a large influx of IAD cases.

OPD has explored alternatives to maintain Annuitants, but has concluded that those positions cannot be maintained given the current State law. The penalty for non-compliance with state law would subject the annuitant to mandatory reinstatement from retirement back to City employment, subjecting the annuitant and the City to adverse financial risk. Retirees must not be appointed to vacant permanent part-time, permanent intermittent, or permanent full-time positions, even if the hours worked will not exceed 960 hours per fiscal year or the retiree will be subject to mandatory reinstatement from retirement.

OPD's previous use of annuitants is not an option and the program offering additional capacity is terminated. The loss of the seven annuitants further depletes staffing in Internal Affairs. Existing staff in Internal Affairs will need to continue much of the work that was being done by those annuitants. With that workload redistributed it diminishes the Internal Affairs Division's ability to handle a large influx of IAD cases. Additionally, even if the Department was able to hire new annuitants; there are a limited number of annuitants qualified to do Internal Affairs investigations. The most qualified annuitants were the ones already employed by OPD and that now can no longer work due to the change in law. The time it would take to hire and train new annuitants is not feasible given the existing time constraints.

#### Procurement Process

The Oakland Municipal Code Section 2.04.020 "Authority of the City Administrator," Sub Section A states that the City Administrator shall have authority to bind the City by written contract or purchase order without previous specific action of the Council for purchases of supplies and services or a combination up to one hundred thousand dollars in any single transaction or term agreement and/or for the purchase of Professional Services up to one hundred thousand dollars (\$100,000.00) in any single transaction or term agreement. The Oakland Municipal Code Section 2.04.020 "Authority of the City Administrator," Sub Sections G and H provide for the procurement of supplies and services when a situation deemed by the City Administrator to be an emergency for the immediate preservation of the public peace, health, or safety.

The City Administrator exercised that authority in response to the critical time sensitive nature and complex needs arising by the need to comply with the Negotiated Settlement Agreement and/or State laws time lines based on actions and events related to Occupy Oakland that have resulted in the high volume of administrative investigations. It is important to note that the selection was not a sole source procurement as the City solicited responses from three subject matter experts familiar with the scope of needed services specific to the Occupy Oakland administrative investigations.

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Since October 25, 2011, the Oakland Police Department Internal Affairs Division (IAD) has received numerous misconduct complaints against members of the Oakland Police Department (OPD) as a result of *Occupy Oakland* protests and events. Due to the volume, sensitivity, and complexity of these complaints as well as a response-time mandate outlined in the Negotiated Settlement Agreement (NSA), coupled with a substantial increase in the number of complaints filed and marked reduction in staff size, the need exists to increase the time, performance and compensation of the most recent agreement to support the Department's investigative capacity (internal affairs investigations).

After considering the proposals received, the City entered into a contract with Frazier Group, LLC, in the amount of \$100,000 for the time period of February 13, 2012 to March 1, 2013, to conduct administrative misconduct investigations related to Occupy Oakland events as requested by the Chief of Police, assist with the development of a crowd control training curriculum, and provide general support and technical assistance to the Chief of Police. The scope is appropriately designed to allow for the Chief of Police to manage workload and priorities for these investigations, as well as to increase the investigations pending City Council action of this increase in the contract amount. These efforts have been approved by the Monitor, which is required by the Federal Court Order.

Respectfully submitted,



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HOWARD A. JORDAN  
Chief of Police

Prepared by:

Assistant Chief Anthony Toribio

Ms. Kristin Burgess  
Policy Program and Performance Auditor  
Office of Inspector General

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